

# **EXHIBIT B**

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*Attorney for Defendant*  
**TROUTMAN SANDERS LLP**  
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**E-mail: jennifer.mathis@troutman.com**

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**THE FOURTH JUDICIAL DISTRICT  
IN AND FOR UTAH COUNTY, STATE OF UTAH**

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**THOMAS ALVORD,**

*Plaintiff,*

**v.**

**ON DECK CAPITAL, INC.,**

*Defendant.*

**DEFENDANT'S NOTICE OF  
FILING OF NOTICE OF  
REMOVAL**

**Case No. 198100051**

PLEASE TAKE NOTICE that a Notice of Removal of this action from the Justice Court of Utah, Fourth Judicial District Utah County, Utah, to the United States District Court of Utah (a copy of which, excluding exhibits, is attached as **Exhibit 1**) was filed on March 14, 2019 in the United States District Court for the District of Utah, thereby effecting removal of this action, and pursuant to 28 U.S.C. § 1446(d), this Court shall proceed no further.

Dated: March 14, 2019

Respectfully submitted,

**ON DECK CAPITAL, INC.**

*By: Jennifer Mathis*

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Jennifer Mathis (Utah Bar No. 11475)

TROUTMAN SANDERS LLP

580 California Street, Suite 1100

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*Counsel for Defendant On Deck Capital, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 14th day of March 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, and I further certify that a true and correct copy of the foregoing was sent via first class mail to the following counsel of record:

**Thomas Alvord, *pro se***  
**10782 N. La Costa**  
**Cedar Hills, UT**  
**Tele.: 801-735-1968**  
**Email: thomasalvord@gmail.com**  
***Plaintiff***

/s/ Jennifer Mathis  
Jennifer Mathis (Utah Bar No. 11475)  
TROUTMAN SANDERS LLP  
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San Francisco, CA 94104  
Telephone: (415) 477-5706  
Facsimile: (415) 477-5710  
E-mail: jennifer.mathis@troutman.com  
*Counsel for Defendant On Deck Capital, Inc.*

# EXHIBIT 1

Thomas Alvord

Name

10782 N La Costa

Address

Cedar Hills, UT 84062

City, State, Zip

801-735-1968

Phone

thomasalvord@gmail.com

Email

I am the ☒ Plaintiff☐ Attorney for the Plaintiff and my Utah Bar number is \_\_\_\_\_

RECEIVED

FEB 11 2019

UTAH COUNTY  
JUSTICE COURTDate 13 Feb 19 Time 2:44p  
R/SW So. Temple 170  
Upon Suzanne Peterson agent  
Orson MackenDeputy - Private Investigator - Process Server  
Salt Lake County Constable, Bob Reitz  
7026 Commerce Park Dr. #101, Midvale, UT  
(801) 255-5468

In the Justice Court of Utah

4th Judicial District Utah County

Court Address 151 S. University Ave #3300 Provo UT 84601

Thomas Alvord

Plaintiff

v.

ON DECK CAPITAL, INC

Defendant

Affidavit and Summons  
(Small Claims)

Case Number

Judge

I swear that the following is true.

(1) Defendant owes me \$9,000.00 for the claim described in paragraph (2).

plus the filing fee of \$185.00

plus an estimated service fee of \$60.00

plus estimated attorney fees of \$1,828.50

(Attach statute or contract showing you are  
authorized to claim attorney fees.)

for a total of: \$11,073.50

plus prejudgment interest, if qualified for prejudgment interest.

- (2) I have received calls from Defendant on six different occasions in the last two months. The calls came from 801-802-4923 each time.

The calls from the Defendant to me used a prerecorded voice at the beginning. Only after listening to the prerecorded voice, and making a selection, did I speak with a live representative, which I finally did on the 6<sup>th</sup> call to figure out who kept spam calling me.

The representative said they were from Front Lead Capital. The emails I received from the representative came from Front Lead Capital at [www.frontleadcap.com](http://www.frontleadcap.com). After asking a few times, a representative disclosed Front Lead Capital is a DBA of Ondeck ([www.ondeck.com](http://www.ondeck.com)), which is owned by On Deck Capital, INC. I have these calls recorded.

The Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227(b)(1)(A), provides that it shall be unlawful for any person to make a call to "a "cellular telephone service" using a "prerecorded voice."

The Defendant made calls to my cellular telephone number using a prerecorded voice six different times, thereby violating the TCPA on six separate occasions.

47 U.S.C. § 227(b)(3) provides a private right of action, in which a person may bring an action to "receive \$500 in damages for each such violation" of the TCPA. Additionally, the statute provides treble damages, in which the award may be increased 3 times, for a total of \$1,500 for each violation, if the Defendant acted willfully or knowingly.

In the present case, the Defendant acted knowingly and willfully because it was the Defendant who created and placed the prerecorded voice at the beginning of the calls.

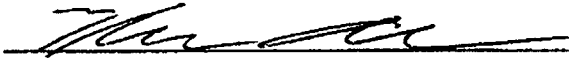
Thus, the Defendant knowingly and willfully violated the TCPA, and the TCPA provides statutory damages of \$500, plus a statutory increase of 3 times, for a total of \$1,500 for each violation. Since there were 6 violations, that is a total of \$9,000 in statutory damages.

There are also 5.3 hours of attorney fees, at \$345 per hour, for drafting this Affidavit and Summons, as well as compiling all the evidence to support this case. In total, this has been \$1,828.50 in attorney fees.


- (3) [ ] Defendant resides within the jurisdiction of the court.

- [X] The events happened within the jurisdiction of the court.
- (4) [X] I am not suing a government entity. I am not suing a government employee for the employee's on-the-job conduct.
- (5) [X] I am not suing on a claim that has been assigned to me.
- (6) [ ] I am filing this affidavit in the First District Court for Cache County because the defendant resides in unincorporated Cache County or in a municipality within Cache County that does not have a justice court and the cause of action arose in unincorporated Cache County or in a municipality within Cache County that does not have a justice court.

I have not included any non-public information in this document.

2/11/19 Sign here ►   
Date  
Typed or Printed Name Thomas Alvord

On this date, I certify that Thomas Alvord who is known to me or who presented satisfactory identification, in the form of a Utah Driver', has, while in my presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

FEB 11 2019 Sign here ►   
Date  
Typed or printed name (Court Clerk or Notary Public) \_\_\_\_\_  
Notary Seal

## Summons

To: On Deck Capital, INC.  
15 WEST SOUTH TEMPLE STE 1701  
Salt Lake City, UT 84101

You are summoned to appear at trial to answer the above claim. The trial will be held at the court address shown above. If you fail to appear, judgment may be entered against you for the total amount claimed.

*Se le cita a comparecer a juicio para responder al reclamo arriba descrito. El juicio tendrá lugar en la dirección del tribunal que se muestra arriba. Si usted no comparece, se podría dictar un fallo contra usted por el total de la cantidad reclamada.*

Date (Fecha) April 2, 2019 Time (Hora) 8:30 ☒ a.m. [ ] p.m.  
Room (Sala) 3309 Judge (Juez) Cullimore

### Notice to the Defendant

A small claims case has been filed against you. This imposes upon you certain rights and responsibilities. You can find small claims information and instructions at <https://www.utcourts.gov/howto/smallclaims/>.

The court's Finding Legal Help web page ([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

*Un caso de reclamos menores ha sido presentado contra usted. Esto le impone a usted ciertos derechos y obligaciones. Usted puede encontrar información e instrucciones sobre reclamos menores en <https://www.utcourts.gov/howto/smallclaims/>.*

*La página del tribunal sobre Como Encontrar Ayuda Legal ([www.utcourts.gov/howto/legalassist/](http://www.utcourts.gov/howto/legalassist/)) proporciona información acerca de las maneras en que usted puede obtener ayuda legal, incluyendo el Centro de Ayuda del tribunal, abogados a precio reducido, ayuda legal limitada y talleres jurídicos gratuitos.*

**Attendance.** You must attend. If you do not attend, the relief requested might be granted. You have the right to be represented by a lawyer.



**Asistencia.** Presentarse es obligatorio. Si usted no llegara a presentarse, el remedio solicitado podría ser otorgado. Usted tiene el derecho de que lo represente un abogado.

**Evidence.** Bring with you any evidence that you want the court to consider.

**Pruebas.** Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.

**Interpretation.** If you do not speak or understand English, contact court staff at least 3 days before the hearing, and an interpreter will be provided.

**Interpretación.** Si usted no habla ni entiende el Inglés contacte al personal del tribunal por lo menos 3 días antes de la audiencia y le proveerán un intérprete.

**Disability Accommodation.** If you have a disability requiring accommodation, including an ASL interpreter, contact court staff at least 3 days before the hearing.

**Atención en caso de incapacidades.** Si usted tiene una incapacidad por la cual requiere atención especial, favor de contactar al personal del tribunal por lo menos 3 días antes de la audiencia.

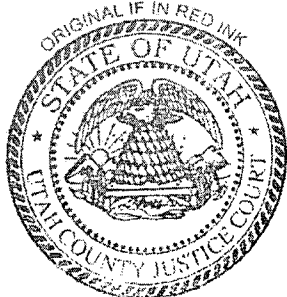
**Right to Jury Trial.** If you want to have a jury trial in this case, you must file documents to remove the case to district court. See the Small Claims web page for information about that process, and forms: <https://www.utcourts.gov/howto/smallclaims/>.

**El derecho a juicio por jurado.** Si usted quiere tener un juicio con jurado, usted deberá presentar documentos pidiendo que el caso sea transferido al tribunal de distrito. Vea la página de internet de Reclamos Menores para más información sobre el proceso y formularios: <https://www.utcourts.gov/howto/smallclaims/>.

Date: FEB 11 2019

Sign here ►

Court Clerk



**UTAH COUNTY JUSTICE COURT**  
**151 SOUTH UNIVERSITY AVE. SUITE 3300**  
**PROVO, UTAH 84601**

**UTAH COUNTY JUSTICE COURT SMALL CLAIMS**  
**MEDIATION PROGRAM – EXPLANATION**

The Utah County Justice Court has implemented a program whereby all small claims cases will be referred to mediation. **Your first small claims court appearance will be for a mediation conference. If a resolution is not reached at mediation, the court will then schedule a trial date.** This program is explained below.

**SMALL CLAIMS MEDIATION PROCEDURE**

When both parties appear at a small claims mediation conference the parties will be directed to meet with one another and a mediator. The parties will be required to make a “good faith” effort to resolve their claims through mediation. In mediation both parties will have the opportunity to sit down with a neutral facilitator, or mediator, who will help you talk about the dispute and explore potential, mutually-agreeable solutions. The mediator is not a judge, nor will the mediator give you legal advice. The mediator’s role is to facilitate your communication with the other party, help you explore and evaluate possible solutions, and ultimately come to an agreement. If the parties are able to reach an agreement, the case will come back in front of the judge to implement the resolution, and the case will be over that day.

**MEDIATORS**

Mediation is confidential. Nothing that is said in mediation can be used against you in court.

Utah Valley University and the law school at Brigham Young University both have mediation programs. Volunteers from these programs will be available at the courthouse to provide free mediation services to you. These individuals are not employed by, or associated with Utah County or the court, and are completely neutral. If the parties would prefer, they may utilize (and pay for) the mediator of their choice, outside of this court-provided program. The parties may file a Stipulation indicating that mediation has already been completed, and providing the date and name of the mediator, and the case will be scheduled for trial.

**Benefits to Parties:**

In mediation, the power to decide what happens in your case stays in your hands. You are the one who will decide whether to resolve your dispute and on what terms.

A judge can generally only hand down win/lose outcomes, and may only award a fixed monetary amount. The judge is limited from using other types of remedies. In mediation you can devise creative solutions that are tailored to your specific situation. You can also formulate payment plans that both parties are able to live with.

**Reasons for Implementation:**

The court has observed that over 75% of cases that are mediated are settled by the parties. Requiring parties to mediate greatly reduces the court’s case load, while at the same time allowing parties to settle their claims on mutually agreeable terms.

Parties that agree to settle a case have ownership of that result. Parties are more likely to comply with a voluntary settlement agreement. This saves the parties the time and expense of dealing with enforcement proceedings.

Many small claims trials result in dismissals or default judgments when one or both parties fail to appear for the trial. This makes it difficult to schedule a small claims calendar, as it is impossible to know which cases will actually go to trial. By utilizing a mediation conference, cases that are scheduled for trial are more likely to actually result in a trial. If you are unable to resolve your claims, you will be given a date and time for trial and you will not have to wait while the judge hears other cases scheduled at the same time. This process is more efficient for the court, and should result in less wait time for the parties.